IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

LETTERS PATENT APPEAL NO. 24 OF 1995

Kolhapur Janta Co-operative Consumers Society Ltd. ... Appellant

Vs.

Gopal Pandurang Kotmire ... Respondent

Mr. P.D. Dalvi for Appellant.

Mr. D.S. Sawant for Respondent.

CORAM : F.I. REBELLO & ANOOP V. MOHTA,JJ.

DATED : AUGUST 18, 2004

P.C. :

1. By order dated 24.6.1994 the learned Single Judge of this Court was pleased to allow writ petition and made rule absolute in terms of Prayer Clause (a) with further direction that the appellant herein be reinstated in service with continuity and pay him full backwages from 24th February, 1984 till the date of reinstatement. There are further directions, that the direction as to reinstatement and back wages shall be implemented not latter than 30th September, 1994, failing which the back wages calculated upto that date and further liability towards wages arising thereafter shall carry interest at the rate of 12

per cent per annum, apart from other consequences. This appeal came to be preferred against the said order. Though the appeal was admitted, no interim relief was granted. Even otherwise, from the judgement in Paragraph 1, it is clear that the appeal is preferred under Article 227 of the Constitution of India. If that be the case, L.P.A. would not be maintainable.

2. Even otherwise, on merits, this was a case of retrenchment. The learned Labour Court after considering the material observed that while retrenching the respondent workman appellant was guilty of bias. The Labour Court however held that the reinstatement was not necessary and ends of justice would be met by granting compensation of six months wages in lieu of reinstatement. The learned Judge of the Industrial Court Court upheld the reasoning of the Labour Court.

3. Considering the matter and the orders of the Courts below the learned Judge in Paragraph 11 held that the appellants herein were unable to make out any special circumstances which had been brought to the notice of the two courts below which could have been considered as the basis for the refusal to

grant reinstatement and full back wages. We agree with the reasoning of the learned Judge.

4. In the light of that, appeal dismissed. No order as to costs.

(F.I. REBELLO,J.)

(ANOOP V. MOHTA,J.)